



# *The Human Right to Education:*

## Cântico Negro

"Vem por aqui" — dizem-me alguns com  
olhos doces,

Estendendo-me os braços, e seguros  
De que seria bom se eu os ouvisse  
Quando me dizem: "vem por aqui!"  
Eu olho-os com olhos lassos,  
(Há, nos meus olhos, ironias e cansaços)  
E cruzo os braços,  
E nunca vou por ali..

A minha glória é esta:  
Criar desumanidade!  
Não acompanhar ninguém.

—Que eu vivo com o mesmo sem-vontade  
Com que rasguei o ventre a minha mãe.

Não, não vou por aí! Só vou por onde  
Me levam meus próprios passos...

Se ao que busco saber nenhum de vós  
responde,  
Por que me repetis: "vem por aqui"?  
Prefiro escorregar nos becos lamacentos,  
Redemoinhar aos ventos,  
Como farrapos, arrastar os pés sangrentos,  
A ir por aí...

Se vim ao mundo, foi  
Só para desflorar florestas virgens,  
E desenhar meus próprios pés na areia  
inexplorada!  
O mais que faço não vale nada.

Como, pois, sereis vós  
Que me dareis machados, ferramentas,  
e coragem  
Para eu derrubar os meus obstáculos?...  
Corre, nas vossas veias, sangue velho  
dos avós,  
E vós amais o que é fácil!  
Eu amo o Longe e a Miragem,  
Amo os abismos, as torrentes, os  
desertos...

Id! tendes estradas,  
Tendes jardins, tendes canteiros,  
Tendes pátrias, tendes tectos,

E tendes regras, e tratados, e filósofos,  
e sábios.  
Eu tenho a minha Loucura!

Levanto-a, como um facho, a arder na  
noite escura,  
E sinto espuma, e sangue, e cânticos  
nos lábios...

Deus e o Diabo é que me guiam, mais  
ninguém.  
Todos tiveram pai, todos tiveram mãe;  
Mas eu, que nunca princípio nem acabo,  
Nasci do amor que há entre Deus e o  
Diabo.

Ah, que ninguém me dê piedosas intenções!  
Ninguém me peça definições!  
Ninguém me diga: "vem por aqui!"  
A minha vida é um vendaval que se soltou.  
É uma onda que se alevantou.  
É um átomo a mais que se animou...  
Não sei por onde vou,  
Não sei para onde vou,  
— Sei que não vou por aí.

—José Régio

Poemas de Deus e do Diabo (1925)

---

*Caetano Pimentel resides in Rio de Janeiro, Brazil.  
This article is based on a monograph  
he wrote for a post-graduation course  
on Human Rights and Democracy  
at the University of Coimbra,  
Coimbra, Portugal.*



# *Freedom and Empowerment*

*By Caetano Pimentel*

## Introduction

Education is widely understood as the gradual process of acquiring knowledge or the process of training through which one teaches or learns specific skills; furthermore, it can be understood as disciplining the character. It is undoubtedly the spread of knowledge and information but, more than this, the imparting of experience, knowledge, and wisdom. One of the fundamental goals of education is the transmission of culture between generations.

In a broader sense, education begins with life itself<sup>1</sup> and goes beyond formal or informal schooling, encompassing the struggles and triumphs of daily life. It is essential both for children and adults—in the case of the latter, to replace or prolong initial education in schools, colleges, and universities as well as in apprenticeship.<sup>2</sup>

Religious values, political needs, and the system of production have always determined the standards of education. Indeed, education has always been subor-

minated to the expectations concerning the roles individuals would perform in their social group.

But the importance of education has been acknowledged in a much broader sense:

### Dakar Framework for Action:

6. (...) [Education] is the key to sustainable development and peace and stability within and among countries, and thus an indispensable means for effective participation in the societies and economies of the twenty-first century, which are affected by rapid globalization. (...)

Indeed, as a human right, education is the acknowledgement of the individual's rights rather than his or her role in the capitalist goals of the economic growth; the human right to education is the way through which one can conquer freedom and become a genuine individuated<sup>3</sup> being, self-aware and yet deeply and truly connected to others.

The Brazilian educator Paulo Freire formulated ideas concerning literacy (and

the learning process as a whole) which became influential internationally. According to Freire, the process of learning necessarily goes along with the learner's ever-increasing awareness of his/her existential condition and of the possibility of acting independently to change it—with individuals reflecting on their values, their concern for a more equitable society, and their willingness to support others in the community. Learning process is what Freire called 'conscientization,' an empowerment of the individual.

Freire expanded education's technical-pedagogic dimension to a political one, which demands a major shift of the education paradigm into 'praxis': reflection plus action, which highlights the importance of learners becoming active subjects in the learning process, taking a position of agents.

## Education throughout History<sup>4</sup>

Education has taken as many forms as cultural, political, and religious values



have been created by human kind. In Egypt and Mesopotamia (3000 B.C.), the first formal group education appeared as Scribal schools. In primitive societies of hunters and gatherers, learning process was based on watching and imitating. Jewish religious education was a way to glorify G\*d. In Greece, a man-centered approach to education was available to a privileged male few, both at home and in State schools—but, still, the whole purpose of education was to subordinate the individual to the needs of the State.

Medieval education was an evolution of Catholic catechetical schools of the second century—Monasteries were both for those preparing for a monastic vocation (oblats) and those whose aims were secular (externi); the later Middle Ages witnessed the rise of the great cathedral schools followed by the ascendancy of the universities and the complexities of scholasticism.

During the Renaissance, there was a turn back to humanistic cultural values of Classical Greece and Rome. Based mainly on parish church provisions and also found in some monasteries and palaces, primary schools were mostly limited to elites. Changes in economical relations arising at the time led to the education of some new skills, such as computation and bookkeeping.

In the following centuries, complex changes on economic, political, technological, religious, scientific, and aesthetic levels demanded a substantial increase in provisions for schooling and the access to schools. The fullest expression of the need to broaden formal educational opportunity came in calls for universal schooling. Convictions and trends moved in the direction of enlarged access despite the persistence of some conservative medieval opposition. These convictions and trends meant increasing the number of schools and putting them near potential student populations in towns and villages—and a big challenge was to find a sufficient number of competent schoolmasters.

The 18th century gave way to the emergence of the idea that schools should be instruments of social reform (Samuel Hartlib, John Dury, John Comenius), and access to them should be increased. Social and religious reforms, nationalism, commerce and industry, colonization, and scientific methods of inquiry and technological innovations were responsible for the development of a number of theories concerning education and school access, amongst them the ideas of secular universal elementary schooling and the development of critical rational thinking.

The North American colonies along the

Atlantic coast (17th-18th centuries) transplanted the ideas of Renaissance (South), Reformation (North), and Enlightenment (Franklin and Jefferson), whereas earlier settlements established by Spain and France maintained a parish organization of schools. Private schools (Franklin), free public school for all (Jefferson), language teaching, and the diffusion of knowledge were some of the trends concerning education for white boys and girls.

In Brazil, Asia, and Africa, Jesuit Priests were in charge of the catechization of natives and the children of the first colonisers. Particularly in Brazil, their mission was to teach them to read, perform labor, and organize themselves in order to protect the land occupied, which led the native culture to be nearly extinguished. The Jesuits remained in Brazil until 1759, when they were sent away from the country by Marquês de Pombal, whose goals were to create an administrative elite and increase the production of raw materials and commodities (e.g., sugar) to be traded by Portugal.

Major social, political, cultural, and economical changes arose after the French and American revolutions, when four major trends to modern western democracies were established: the rise of nation states, urbanization and industrialization, secularization, and popular participation.

Nation states, with their enormous power to gather and focus both human and material resources, have come to interfere increasingly in the definition of educational policy and schooling. Industrialization and urbanization resulted in a concentration of human populations more and more diverse. Secularization has meant an augmenting emphasis on rational/empirical modes of explanation. Popular participation refers to an enlarging access to involvement in the governance of public life.

These trends have not and do not come about in a linear way, nor are they alike everywhere, both in timing or scope. Changes are still operating in many western and eastern countries today, and as a result we can find four major issues that modern states are yet to sort out: social stratification and class interests, religion and ideology, race and ethnicity, and geography (i. e., localism, regionalism).

### The Right to Education— a Historical Background

Educational process implies a number of actors: those who receive education, those who provide education, and those who are responsible for the ones who receive education.<sup>5</sup> The first legislation on educa-

tional issues were an attempt to balance the complex relations between these actors. The social, cultural, political, and economical changes brought about in the modern age by the emancipation of the individual have had a great impact on the relationship between the individual and the state. The recognition of rights of individuals and duties of state are both a reflection and a consequence of these changes.

Although we may find today the right to education enshrined in many provisions of human rights law, none of the classical civil instruments such as the British Bill of Rights of 1689, the Virginia Declaration of Rights of 1776, the American Declaration of Independence of 1776, and the French Declaration of Rights of Man contained any language specifically related to the right to education, although some recognised the freedom of teaching from state interference. Indeed,

Public education was perceived as a means to realising the egalitarian ideals upon which these revolutions were based (...).<sup>6</sup>

Child labor in England had been subject to legal regulation since the first Factory Act in 1802 (Health and Morals of Apprentices Act), but it was not until the Factory Act of 1833 that legal provisions imposed restrictions on child labor and created the obligation of school attendance—first in textile establishments, and then the Mines Act came later in 1842.

The Constitution of the State of Indiana (1816), in its article IX, recognized the importance of education to the preservation of free government (sect. 1) and also stated goals to provide for a general system of education, free and equally open to all (sect. 2).<sup>7</sup>

The socialist ideas of a paternal state, drafted by Marx and Engels, and the liberal anti-clerical concepts of freedom (of science, research and teaching, among others) also influenced the definition of the educational rights by means of compulsory school attendance and similar measures. In the latter half of the 19th century the Constitution of the German Empire contained a section entitled “Basic Rights of German People,” and the German Weimar Constitution of 1919 included a section on “Education and Schooling.”<sup>8</sup>

The first provision on the human right to education with a corresponding duty of the state to provide education was in Stalin's Soviet Constitution of 1936. As a matter of fact, the right to education has been a major fundamental right in all constitutions of socialist states.<sup>9</sup>

As a major interest of the state and

society, education turned out to be a right of the individual, rather than solely a duty of state or parents. And in the 20th century, many international and regional instruments and a number of national constitutions have recognized the right to education, which thus has become a fundamental human right.

At the international level, peaceful resolution of conflicts has always been a major concern: the International Peace Conference (The Hague, 1899), the League of Nations (Versailles, 1919), and the Declaration by United Nations (1942) to support the fight against the Axis Powers were the expression of nations' concern about peace and security.

When the Second World War was over, representatives of 50 countries met in San Francisco, in 1945, to draft the United Nations Charter. The purpose of the United Nations, set forth by the charter, comprehends not only peace and security goals, but a broader scope of actions and international cooperation efforts concerning economic, social, cultural, and humanitarian problems and, above all,

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small (...).<sup>10</sup>

UNESCO, the United Nations Educational, Scientific, and Cultural Organization, was born in the same year. Peace and security, justice, the rule of law and the human rights, and fundamental freedoms are clearly expressed in its declaration of purpose.

The United Nations' Universal Declaration of Human Rights (UDHR) (1948) enshrines, in its Article 26, the right of everyone to free and compulsory education and recognizes the role of education in the development of the human personality and the respect for human rights and fundamental freedoms.

The process of positivization of the rights contained in the UDHR at the international level started with the two covenants adopted in 1966. Concerning education, the International Covenant on Economic, Social, and Cultural Rights spells out in more detail the right to education, in its articles 13 and 14, including the right to free compulsory primary education, adult education, freedom to choose education, and recognition of the role of education in enabling all persons to participate effectively in a free society.

### Education as a Human Right

Emphasising education as a basic human

right shifts the focus from simply concentrating on the contribution that education can make to economic development. The focus on education as a fundamental human right is that the internationally agreed Human Right treaties form a common platform for enshrining equal rights to education for all citizens. In this perspective the individual in society is viewed as a stakeholder with rights and not an object of charity or investment.<sup>11</sup>

The international community has embraced education as a basic human right, as major international and regional instruments disclose a number of important State obligations.

The right to education is recognized as the one which empowers individuals to cope with basic needs, such as health and dignity, and which enables the full and free development of his or her personality. Also, education is required for the implementation of the collective right to development—which means that any society depends on the education of its members to enjoy satisfactory conditions of life and fully achieve its goals, to assure that they will be able to fulfil personal needs such as housing, health, and food.

Education is now recognized as the pathway to freedom, and free democratic society depends on its members' abilities to freely choose, think, and express themselves, and to actively contribute to the political and social processes in pursuit of their interests.

Education is assigned to the "second generation" of human rights, those related to equality. The nature of second generation rights is fundamentally social, economic, and cultural. In social terms, they ensure different members of the community equal conditions and treatment, securing the ability of the individual to lead a self-directed life and to pursue the development of his or her personality.<sup>12</sup>

Second generation Human Rights are mostly positive rights, "rights (or guarantees) to," as opposed to negative rights which are "rights from," usually freedom from abuse or oppression by others. Hence, education must be provided by a series of positive actions by others: school systems, teachers, and materials must be actively provided in order for such a right to be fulfilled, representing things that the State is required to provide to the people under its jurisdiction.

But the Right to Education can also be linked to first generation (freedom) rights, for it entitles individuals to a certain degree of liberty and autonomy before states and their institutions (the right to choose education), and to third generation (solidarity) rights: the right

to self-determination, to economic and social development, and to participate in the common heritage of mankind,<sup>13</sup> aspiring ultimately to the full respect for and protection of all human rights. The article 8(1) of the Declaration on the Right to Development reads as follows:

States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, *inter alia*, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.<sup>14</sup> (emphasis added)

The right to education is complex and demands strong commitments at many levels to be implemented. As a result, many different aspects of the right to education have been emphasized by the international community since the Universal Declaration of Human Rights, perhaps due to a lack of full commitment to the principles related to this multifaceted right.<sup>15</sup>

In the subjective dimension of the right to education, we can take the definition given by Canotilho<sup>16</sup> to social rights:

Social rights are subjective rights inherent to the portion of space where the citizen lives, independently of immediate justiciability or exequibility. (...) Neither the state nor third parties can damage re-entrant juridical positions in the ambit of protection of these rights.

In the objective dimension, the right to education, as any other social right, according to Canotilho, can be put into practice through lawmaking processes, in order to create material and institutional conditions for these rights to be granted to individuals. In addition, it must be provided as a materialization of the subjective dimension of these rights and a duty of the state to comply with its institutional obligations. These obligations range from minimum guarantees inspired by neo-liberal principles to the full wide-ranging welfare model adopted by social-democracies in northern Europe, for instance.

### Education Today

Albeit the repeated affirmation and recognition of education as a human right, one hundred and thirteen million children around the world are not enrolled in school and many more than that drop out before being able to read or do simple mathemat-

ics. These figures will add to the ranks of 880 million illiterate adults in the world<sup>17</sup> and to escalating unemployment, poverty, and income disparities. A lot has changed since the rise of nation-states, but educational policies are still ruled by economical and political interests.

Since 1950, the estimated illiteracy rates have significantly declined,<sup>18</sup> but as a complex right which consists of quantitative and qualitative aspects, these numbers fall short on describing how well all the purposes comprised by the Article 26 of the Universal Declaration have been fulfilled. On this matter, Joel Samoff has stated:

The most important measures of success of an education programme are the learning that has taken place and the attitudes and values that have been developed. There is little point in reducing the cost of 'delivering education services' without attention to whether or not learning is taking place. Assessing learning and socialization is both complex and difficult. That it is difficult makes it all the more important that it be addressed systematically and critically.<sup>19</sup>

Although in most countries primary education is compulsory by law, it is rarely enforced. From the Proclamation of Teheran, in 1968, to the World Declaration on Education for All adopted by the World Conference on Education for All in Jomtien, Thailand in 1990, and the Dakar Framework for Action of 2000, many changes took place, specially with regard to the focus of education.<sup>20</sup>

Basic principles, such as "free education" and "primary education," have been distorted to exempt governments from the duty of implementing education as set by international and national law. In contrast, statements concerning the international community's agreement on the education's purpose have been considerably broadened:

Taking into account all of the above, the vision of education's aims and purposes that has emerged over the past several decades is essentially focused on two inter-related themes. The first, which can be broadly labelled as 'Education for peace, human rights and democracy', is directly linked to—indeed, has largely been inspired by—the aims and purposes proclaimed in Article 26 of the Universal Declaration. The second, which can be broadly labelled as 'Education for development,' is linked to Article 26 in a more complex way.<sup>21</sup>

#### *Right to Education v. Access to Education*

According to the Annual Report 2004 by the UN Special Rapporteur on the Right

to Education, Professor Katarina Tomasevski, there are many obstacles to the full realization of the right to education: the commercial approach to education (rather than a human-right approach), gender discrimination, and school drop-out are the ones which deserve special attention.

The liberalization of education, under the World Trade Organization GATS (General Agreement on Trade in Services), is within the concept of free market and competitiveness, raising a conflict between trade law and human rights law.<sup>22</sup> Deregulation, privatization, and reduction of public spending leads to the elimination of public funding or subsidy to public services—and that includes education. The underlying philosophy of this process leads to a change of perception from public and community good to individualism and individual responsibility.<sup>23</sup>

In this context, education is not regarded as a right which must be made freely available, accessible, acceptable, and adaptable. It is reflected in an altered vocabulary, as pointed out by Prof. Tomasevski, in which "access" to education does not grant free education funded by the government.<sup>24</sup> Education is no longer provided by the entitlement to rights; it is determined by purchasing power and the rules of self-regulation of the market, as a part of a creeping privatization of education that causes the transference of education costs to poor families. An astonishing array of education charges, from direct school fees to indirect costs for books, pencils, uniforms, and transportation, are supposed to be afforded by family units worldwide.<sup>25</sup>

We must take into account that the expansion of private education is creating a two-tiered system that creates inequities rooted in social class, caste, and gender—where public education, in very poor condition due to lack of resources, is only used by those who cannot afford to pay for better quality schooling provided by private institutions. This dual education system creates and perpetuates a divided society, and this division goes beyond purchasing power, for this inequality also reflects discrimination on the basis of religion, language, race, and gender.

Moreover, not every family can afford having one or more of their children going to school instead of helping the family earn more income. Very often, costs are cited by parents as the major factor in deciding to keep children out of school.<sup>26</sup>

Education is the way to break out of the poverty cycle: through education children, particularly girls, can ultimately help increase the family income, and stay healthier. Education is definitely the foun-

dation for equitable human and economic development.

In developing countries, the education crisis is also a crisis of education quality. Those children who do attend school in the world's poor countries face enormous obstacles to their learning. A chronic teacher shortage most of the time results in large-sized classes, multi-graded or divided by shifts. Another problem is the inadequate supply of basic materials, such as books, desks, and benches, not to mention the lack of transportation for students and the too-often empty stomach.

#### *Gender Inequalities*

Gender issues concerning education are also a major concern,<sup>27</sup> for very large gender inequalities still exist in the majority of developing countries. Education not only provides basic knowledge and skills to improve health and income, but it empowers women to take their rightful place in society and the development process. It gives them status and confidence to influence household decisions—women who have been to school tend to marry later and have smaller families. Their children are better nourished and are far more likely to do well at school. Educated women can overcome cultural and social factors, such as lack of family planning and the spread of disease, which contribute to the cycle of poverty.<sup>28</sup>

But girls are needed at home and they contribute largely to the family income: they look after siblings, nurse sick relatives (e.g., in the context of HIV / AIDS in Africa), and do domestic tasks. Besides that, the low number of government schools and the limited public transport make distance a barrier for both boys and girls, but for reasons of safety and security, most parents are reluctant to let their daughters walk long distances to school. In some African countries, sexual abuse of girl pupils—at school and on the way to school—is one of the main reasons parents withdraw their daughters from school.<sup>29</sup>

Girls and women have been victimized by economic factors not only in the realm of education, as it has been pointed out by Prof. Tomasevski.<sup>30</sup> A major shift on many other factors is equally necessary to ensure employment and political representation opportunities— but equal access to education is a significant start to achieve gender equality.<sup>31</sup>

#### *Inclusive Education*

Another step in universal education goals is inclusive education: a strategy contributing towards the ultimate goal of promoting an inclusive society, one



which enables all children/adults, whatever their gender, age, ability, ethnicity, refugee status, impairment or HIV status, to participate in and contribute to that society. Difference is respected and valued. Discrimination and prejudice must be actively combated in policies, institutions and behavior.<sup>32</sup>

Within schools inclusive education is an approach which aims to develop a child-focus by acknowledging that all children/adults are individuals with different learning needs and speeds. It leads people to learn about themselves and understand their strengths and limitations, which makes them better able to recognize and understand not only individual health and physical conditions, but also the political, economic, and social conditions that surround them. One must view oneself positively in order to move from passive to active participation.

### *School Drop-Out*

Providing schools is only part of the problem—a huge one for sure, but still only a part of it; the drop-out phenomenon poses another challenge to schools, families, and governments, as well as to the quality of education provided in many countries.<sup>33</sup>

According to Paulo Freire,<sup>34</sup> society itself prevents students from having access to and remaining at school; indeed, drop-out is nothing but “school push-out,” i.e., children/adults are expelled from school for a number of social, economic, and cultural factors.

The causes that give rise to the drop-out/push-out of students are many, such as to help their families, course failure, pregnancy, lack of interest, addiction to drug/alcohol, financial reasons, gender and ethnic discrimination, not getting along with teachers and/or other students, or criminality. School drop-out/push-out is an issue which concerns both developed and underdeveloped countries—and it does not refer only to minority groups such as immigrants and indigenous populations.

Effective and relevant education is important to combat school dropout/push-out. It helps the promotion of the personal development of the individual, ensuring that educational content, method, and scheduling are appropriate to the different needs and circumstances of each person—as in the case of rural areas, where harvest season can make children and adults prioritize work rather than school,<sup>35</sup> or school-dropout caused by the student's mere lack of interest.

Indeed, concerning this problem in China and Colombia, Prof. Tomasevski stated in her Annual Report 2004:

(...) an important reason for children's dropping out of school was their dislike of the education provided them. That many children, when asked whether they liked school—rarely as this happens—answered in the negative is a sobering lesson for education authorities.

From sub-Saharan Africa to Canada, from rich to poor, from eastern to western culture countries, the world cannot refrain from dealing with education issues—such as exclusion and poor quality education—raised by many cultural, religious, ethnic, social, or economic factors, and their impact on the educational process.

The Dakar Framework for Action affirms:

43. Evidence over the past decade has shown that efforts to expand enrollment must be accompanied by attempts to enhance educational quality if children are to be attracted to school, stay there, and achieve meaningful learning outcomes.

To address these problems, it is necessary to promote a shift in the education paradigm. Students are not supposed to be coadjuvants to education process and schools should not be an instrument of dominant economic and political purposes.

All students in school is inclusive education in the broadest sense—regardless of their strengths or weaknesses in any area, they become part of the school community. They are included in the feeling of belonging among other students, teachers, and support staff.<sup>36</sup>

### *A New Approach to Education*

The strategic objectives of UNESCO's Medium-Term Strategy for 2002-2007 provide a new vision and a new profile for education, as follows:

- Promoting education as a fundamental right in accordance with the Universal Declaration of Human Rights;
- Improving the quality of education through the diversification of contents and methods and the promotion of universally shared values;
- Promoting experimentation, innovation and the diffusion and sharing of information and best practices as well as policy dialogue in education.

It is important to highlight the concern towards the methods and contents of education, an important issue which has been raised in recent years in order to achieve the higher purpose of education, that is to say, the learner's achievement and development.

In addition, there must be developed

a deeper understanding of literacy, a core educational issue, which is widely seen as essential for enabling a person to function fully in his/her society and is often reduced to the ability to read and write in the official language.

This narrow understanding of literacy, developed in the last two centuries with the formation of the nation state, industrialization, and mass schooling, does not recognize the role it plays as a key to developing a critical mind—which does not rely merely on the development of such skills, but on the liberation and full development of the individual.

### *Human Rights Education*

Human rights education has been proclaimed in various global and regional legal instruments, such as The Charter of the United Nations, which reads:

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in *promoting and encouraging respect for human rights and for fundamental freedoms* for all without distinction as to race, sex, language, or religion; (...) <sup>37</sup> (emphasis added)

Moreover, the Universal Declaration of Human Rights proclaimed

as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by *teaching and education to promote respect for these rights and freedoms* (...) <sup>38</sup> (emphasis added)

At the regional level, the African Charter on Human and Peoples' Rights, in its article 25, explicitly calls on African states to

promote and ensure *through teaching, education and publication, the respect for the rights and freedoms contained in the present Charter* and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood. (emphasis added)

In 1994, the General Assembly of the United Nations proclaimed the United Nations Decade for Human Rights Education (1995-2004), on recommendation of the World Conference on Human Rights (Vienna, June 1994).

The recognition of education as a major instrument to promote and enforce human rights is based on the conviction that we all have the right to know our rights—and it can only be enforced when we learn and understand about the human rights enshrined in national constitutions and in all international human rights instruments.

People are empowered to act when they learn about their human rights and can actively defend themselves from abuses, overcoming their lack of concern towards politics. In addition, imparting of knowledge and skills regarding human rights promotes

- (a) The strengthening of respect for human rights and fundamental freedoms;
- (b) The full development of the human personality and the sense of its dignity;
- (c) The promotion of understanding, tolerance, gender equality and friendship among all nations, indigenous peoples and racial, national, ethnic, religious, and linguistic groups;
- (d) The enabling of all persons to participate effectively in a free society;
- (e) The furtherance of the activities of the United Nations for the maintenance of peace.<sup>39</sup>

Empowerment through human rights education develops the individual's awareness of rights and obligations regarding his/her human condition and includes everyone in the citizenry; it charges people with the responsibility of claiming rights for themselves and others, as well as respecting those rights. People become aware of the difference individuals can make and the importance of joining efforts to do so. Additionally, human rights can become more tangible when related to people's own life experiences, which strengthens the power of these rights in the process of building a more equitable, just, and peaceful world.

The implementation of human rights education goes beyond inclusion in the schools' curricula, for it involves a whole commitment to human rights, from the training of teachers to a safe and healthy learning environment. Human rights education is not only a set of contents to be transmitted to learners, but also understandings of how and where it will be done. Schools' staff must be fully aware of human rights, which should be incorporated in all strategies, procedures, and activities developed and performed by them.

Finally, human rights education should be an integral part of the right to education,<sup>40</sup> both in formal and non-formal schooling.

#### Sex Education

Education on sexuality, relationships, and reproductive health is deeply connected with women's and girls' rights. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the recommendations of the General Comments of the related

Committee are clear on the importance of sex education.<sup>41</sup> Nevertheless, sexuality is inherent to human beings and men and women, boys and girls, every person should have the right to be educated on sexual health, and the Committee of the Rights of the Child states that

Adequate measures to address HIV/AIDS can be undertaken only if the rights of children and adolescents are fully respected. The most relevant rights in this regard, in addition to those enumerated in paragraph 5 above, are the following: (...) the right to preventive health care, sex education and family planning education and services (...).<sup>42</sup>

Sex education is the process of acquiring knowledge and skills concerning sexual behaviour (which comprises sexual orientation, relationships, birth control, and disease prevention), empowering individuals to make decisions, assert their choices, and protect their physical, emotional, and moral integrity. As a result, individuals learn when and how to seek help and become better able to engage in healthier relationships, exert control over their own lives, and recognize other people's rights, cultural differences, and attitudes towards sexuality—mainly regarding sensitive issues such as sexual orientation, contraception methods, abortion, and gender roles.<sup>43</sup>

One could never emphasise enough the core importance of sex education to children—especially girls—with regards to HIV/AIDS prevention, family planning, and elimination of gender discrimination. The right to sex education should be realized with the inclusion of sex education in the curricula worldwide, despite large obstacles such as cultural, religious, and political factors which might tend to prevent schools and educational authorities from enforcing such education.

#### Education Paradigm Shift

Independently of the reasons, be they economic, social, or cultural, a major change in the pedagogical approach is necessary to deal with the current education crisis. Curriculum adaptation, special programs, acknowledgement of cultural peculiarities, and flexible school schedules are many of the potential solutions for such educational problems as large classes, uncaring and untrained teachers, passive teaching methods, inappropriate curriculum, inappropriate testing/student retention, and lack of parent involvement.

A *Manual on Rights-Based Education* has been developed as a result of collaboration between UNESCO Bangkok and the UN Special Rapporteur. Such an approach

recognizes that human rights are interdependent and inter-related and seeks to protect and put them into effect. Human rights are the means, the ends, the mechanisms of evaluation, and the focal point of Rights-Based Education. The manual is based on international human rights law, aiming to bring human rights standards into educational practice, encompassing health, nutrition, safety, and protection from abuse and violence.

One of the issues addressed in the manual is the quality of education, which should be learner-centred and relevant to learners, as well as respectful to human rights, such as privacy, gender equality, freedom of expression, and the participation of learners in the education process.<sup>44</sup> This means that both content and pedagogical approach are crucial to quality of education.

Furthermore, the content should be related to real-life experiences and learners' cultural and social context, encouraging full participation of all parties involved, enforcing their fundamental rights of freedom of expression, access to information, privacy, and health, among others. The importance of education content has also been recognised by the Committee of the Rights of the Child.<sup>45</sup>

A propos, Freire had always stressed the need to change the traditional schooling system, which treats students as objects and contributes to the marginalization of minorities, as opposed to "liberatory" pedagogy, one that uses the dialogical method to facilitate the growth of humanization and empowerment<sup>46</sup> and enforces the principle of equality while respecting differences. The focus must be on education for equity, transformation, and inclusion of all individuals through the development of consciousness and critical thinking.

Freire has based his work on the belief in the power of education to change the world for the better, supporting freedom from oppression and inclusion of all individuals. In his book *Pedagogia da Autonomia* (Pedagogy for Autonomy), he enunciates the three pillar concepts of teaching:

- (1) there is no teaching without learning;
- (2) to teach is not to transmit knowledge; and
- (3) the process of education is a human peculiarity.<sup>47</sup>

Freire's pedagogy requires a whole new approach to the exercise of power over education; responsibility is to be shared between all parties involved (teachers, learners, those responsible for learners, and the community at large) from the

curriculum planning to the process of learning. The dialogical process resulting herein comes about from the recognition of and respect for each individual's personal knowledge and skills, which enables all to participate equally in the organization and development of education.

Teachers and learners share equally the experience of learning through questioning, reflecting, and participating; as a result, this process contributes to the enforcement of infinitely diverse human potentials, instead of refuting, weakening, distorting, or repressing them.

Such a pedagogical approach builds up to the formation of critical consciousness and allows people to question the nature of their historical and social situation—to “read their world”—becoming more than a mere passive object to the information disseminated by others.<sup>48</sup>

The schooling system is not supposed to be limited to reproducing a dominant ideology, to teach a truth that is not true for all, fostering impossible dreams and hopes in the learners; but at the same time it must allow them to dream. It requires an affectionate—yet scientific—posture by the teacher.<sup>49</sup>

The role of the teacher is crucial, but s/he cannot be just an individual in the world, rather than an individual with the world and with other people, sharing the experience of being in “quest”—in a permanent process of questioning, changing, growing, learning, improving, and finding new directions.<sup>50</sup>

Teachers become educators when they get fully aware of the surrounding world's influence on every individual. And, most of all, they must be open to the reality of learners, get acquainted with their way of being, adhere to their right to be. Educators choose to change the world with learners.<sup>51</sup>

Being actively aware of the world, the teacher becomes better able to do more than just disciplining the process through which the world gets into the students, imitating the world, filling their empty vessels with chunks of knowledge.<sup>52</sup>

In an ever-increasing globalized world, learning processes must recognize and value differences; teachers must be prepared to deal with diversity in every level (cultural, social, economic, religious, ethnic, and linguistic) and schools must be prepared to cultivate a joyful environment to foster this get-together. Learning is to celebrate the communication and interaction between people.

## Conclusion

The future of humankind relies on the

fulfilment of the right to education: equality, freedom, dignity, equitable social and economic development, sustainable development, and peace are highly dependent on successful universal education policies.

Nevertheless, just providing universal formal schooling is not a guarantee of an educational system that prepares the individuals to be free. Although it is clear that a lot of work needs to be done until every individual is provided education worldwide, the process of learning can always be improved to achieve its goals of preparing people to participate actively and consciously in the society of which they are part. And education must be respectful of every individual's cultural background so that each person can make the most of it in their personal journey and in their interaction with others.

A rights-based approach to education requires respect for the human rights of all individuals involved in the learning process; it offers education as an entitlement, rather than as a privilege, and does not exempt any actor of the learning process from his/her responsibility for the full protection and fulfilment of any other fundamental right.

Such an approach to education takes place when learners are respected for their autonomy and dignity; moreover, they must be provided all things necessary for them to take part actively in the learning process and to develop their awareness of reality. They learn about their past, understand their present, and acknowledge their power to fight for their future.

Education requires dialogue and affection between teachers and learners. The learning process involves joy, beauty, affection, ethics, equality, mutual respect, and faith in a better world.

## Notes

<sup>1</sup> World Declaration on Education For All, Jomtien, 1990, article 5. Learning begins at birth. This calls for early childhood care and initial education. These can be provided through arrangements involving families, communities, or institutional programmes, as appropriate.

<sup>2</sup> CRC General Comments General Comment no. 1: The Aims of Education, Article 29 (1).

<sup>3</sup> According to Jung, individuation is “a process by which individual beings are being formed and differentiated...having as its goal the development of the individual personality” (Jung, C.W. 6: par. 757), bearing in mind that “As the individual is not just a single, separate being, but by his very existence presupposes a collective relationship, it follows that the process of individuation must lead to more intense and broader collective relationships and not to isolation.” (CW 6, par. 758) “Individuation does not shut one out from the world, but gathers the world to itself.” (CW 8, par. 432) quoted in

Sharp, 1991.

<sup>4</sup> Bowen, 2003.

<sup>5</sup> Nowak, 2001: 190.

<sup>6</sup> Hodgson, 1998: 8.

<sup>7</sup> “Article 9: Sect. 1st. Knowledge and learning generally diffused, through a community, being essential to the preservation of a free Government, and spreading the opportunities, and advantages of education through the various parts of the Country, (...) shall be and remain a fund for the exclusive purpose of promoting the interest of Literature, and the sciences, and for the support of seminaries and public schools.(...); Sect. 2. It shall be the duty of the General assembly, as soon as circumstances will permit, to provide, by law, for a general system of education, ascending in a regular gradation, from township schools to a state university, wherein tuition shall be gratis, and equally open to all.” As in <http://www.in.gov/icpr/archives/constitution/1816.html#art9>

<sup>8</sup> Hodgson, 1998: 8.

<sup>9</sup> Nowak, 2001: 192.

<sup>10</sup> United Nations Charter, Preamble.

<sup>11</sup> Education, Democracy and Human Rights in Swedish development co-operation, Swedish International Development Cooperation Agency, 2004: p. 17.

<sup>12</sup> Nowak, 2001: 196.

<sup>13</sup> As in [http://www.fact-index.com/t/th/three\\_generations\\_of\\_human\\_rights.html](http://www.fact-index.com/t/th/three_generations_of_human_rights.html)

<sup>14</sup> Declaration on the Right to Development, adopted by the General Assembly in 1986.

<sup>15</sup> World Education Report 2000: 23.

<sup>16</sup> Gomes Canotilho, 1998: 434.

<sup>17</sup> Dakar Framework for Action—Education For All: Meeting Our Collective Commitments Text adopted by the World Education Forum—Dakar, Senegal, 26-28 April 2000: 5. (...) it is unacceptable in the year 2000 that more than 113 million children have no access to primary education, 880 million adults are illiterate, gender discrimination continues to permeate education systems, and the quality of learning and the acquisition of human values and skills fall far short of the aspirations and needs of individuals and societies.(...)

<sup>18</sup> World Education Report 2000: 17.

<sup>19</sup> J. Samoff, Education for What? Education for Whom? Guidelines for National Policy Reports in Education, UNESCO, Paris, 1994, p. 28. quoted in Special Rapporteur's Annual Report 2004.

<sup>20</sup> “Every person—child, youth, and adult—shall be able to benefit from educational opportunities designed to meet their basic learning needs. These needs comprise both essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning. ....” (Jomtien Declaration, 1990: article 1)

<sup>21</sup> World Education Report 2000: 76.

<sup>22</sup> Special Rapporteur Annual Report 2004, par. 15.

<sup>23</sup> As seen in <http://campus.northpark.edu/history/Koeller/ModWorld/Development/neoliberalism.htm>; website on longer on line.



<sup>24</sup> Special Rapporteur Annual Report 2004, par. 8.

<sup>25</sup> OXFAM Briefing Paper 3, "A Tax on Human Development", 2001: 2.

<sup>26</sup> Not surprisingly, social protection is one of the prevention measures of International Programme on the Elimination of Child Labour of the ILO, so that families do not have to rely on their children's workforce to pay for their living.

<sup>27</sup> World Declaration on Education For All, Jomtien, 1990: Article 3 (3) The most urgent priority is to ensure access to, and improve the quality of, education for girls and women, and to remove every obstacle that hampers their active participation. All gender stereotyping in education should be eliminated.

<sup>28</sup> A Fair Chance, Global Campaign for Education, April 2003: 2.

<sup>29</sup> Ibid, p. 25.

<sup>30</sup> Special Rapporteur Annual Report 2004, par. 32.

<sup>31</sup> As seen in [http://www.unesco.org/education/educnews/20\\_12\\_12/gender.htm](http://www.unesco.org/education/educnews/20_12_12/gender.htm); website on longer on line.

<sup>32</sup> As seen in [http://www.eenet.org.uk/theory\\_practice/whatisit.shtml](http://www.eenet.org.uk/theory_practice/whatisit.shtml); website no longer on line.

<sup>33</sup> World Declaration on Education For All, Jomtien, 1990, Preamble: "More than 100 million children and countless adults fail to complete basic education programmes; millions more satisfy the attendance requirements but do not acquire essential knowledge and skills; (...)"

<sup>34</sup> Freire, 2000: 50-51.

<sup>35</sup> A Fair Chance, Global Campaign for Education, April 2003: 24.

<sup>36</sup> Dakar Framework for Action, par. 67: "There is an urgent need to adopt effective strategies to identify and include the socially, culturally and economically excluded. This requires participatory analysis of exclusion at

household, community and school levels, and the development of diverse, flexible, and innovative approaches to learning and an environment that fosters mutual respect and trust."

<sup>37</sup> Charter of the United Nations, article 1(3).

<sup>38</sup> Universal Declaration of Human Rights, proclamation.

<sup>39</sup> Report of the United Nations High Commissioner for Human Rights on the implementation of the Plan of Action for the United Nations Decade for Human Rights Education, Appendix, par. 2.

<sup>40</sup> UNESCO Executive Board 165th Session—Elements for an Overall Unesco Strategy on Human Rights, par. 31

<sup>41</sup> CEDAW, Article 10(h): "Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning." General Recommendations of the Committee, 21: "In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention." Recommendations for government action, par.31: "States parties should also, in particular: (c) Prioritize the prevention of unwanted pregnancy through family planning and sex education."

<sup>42</sup> Committee of the Rights of the Child, General Comments 3, par. 6.

<sup>43</sup> As in <http://www.avert.org/sexedu.htm>

<sup>44</sup> *Manual on Rights-Based Education*. Collaborative project between Katarina Tomasevski (U.N. Special Rapporteur on the Right to Education) and UNESCO Asia and Pacific Regional Bureau for Education, Bangkok, Thailand.

<sup>45</sup> General Comment no. 1 (on the article 29 [1]) "The Aims of Education", par. 3: "The child's right to education is not only a matter of access

(CRC – art. 28) but also of content. (...)"

<sup>46</sup> Freire, 1970: 43

<sup>47</sup> Freire, 1998.

<sup>48</sup> Freire, 1970: 68.

<sup>49</sup> Freire, 1998.

<sup>50</sup> Freire, *ibid*.

<sup>51</sup> Freire, *ibid*.

<sup>52</sup> Freire, 1970: 36.

## References

- Bowen, James (2003), *A History of Western Education*, Vol. I-III, Routledge.
- Canotilho, J.J. Gomes (1998), *Direito Constitucional e Teoria da Constituição*, Almedina.
- Freire, Paulo (1970), *Pedagogia do Oprimido*, Paz e Terra, versão.
- Freire, Paulo (1997) *Pedagogia da Autonomia: Saberes necessários à prática educativa*, Paz e Terra, versão e-book.
- Freire, Paulo (2000), *A Educação na Cidade*, Cortez, versão e-book.
- Hodgson, Douglas (1998), *The Human Right to Education*. Ashgate.
- Nowak, Manfred (2001). The Right to Education. In Ashbjorn Eide, Catarina Krause, & Allan Rosas, *Economic, Social and Cultural Rights—A Textbook*, Martinus Nijhoff Publishers, p. 189-211.

